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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,698	03/17/2003	Jonas Browne		6374

7590 04/06/2004

Flush Laboratories, Inc
221 East Hartsdale Avenue
Hartsdale, NY 10530

EXAMINER

HUYNH, KHOA D

ART UNIT PAPER NUMBER

3751

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/666,698	Applicant(s) BROWNE, JONAS	
	Examiner Khoa D. Huynh	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the handles, 30 degree rotation, the mechanical stop and knobs as recited in claim 1; and the air bulb as recited in claim 2 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: arm No. 1, arm No. 2, and an adjustable weight.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because implication phraseology such as "This invention provides..." should be avoided. Furthermore, it is recommended that applicant should make an attempt to revise the Abstract since "the abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details". Correction is required. See MPEP § 608.01(b).

Claim Objections

3. Claims 1-3 are objected to because of the following informalities: each claim begins with a capital letter and ends with a period. Periods may not be used elsewhere in the claims except for abbreviations. See MPEP § 608.01(m). Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 2 and 3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 2, claim 2 calls for "when the handle is rotated to the left" a full flush is produced. Such claimed subject matter is difficult to ascertain since the detailed structural connections between the new shaft, the new discharge valve and its valving system, and the existing flush mechanism are not being shown or being described in detailed. Such detailed description of the structural connections provides an understanding of how the invention works as claimed.

Claim 3 calls for "the (flushing) cycle is interrupted by the valving system" since "the valving will only allow a preset amount of the tank water to be released". Such

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claimed subject matter, however, does not have any detailed support in the instant specification to allow one skill in the art to ascertain the scope of the claimed invention. In other words, the specification is vague and unclear as to how the "valving system" works as claimed. Furthermore, applicant's flushing system, as being shown in the Figures, will not function to produce a water-saving flush as claimed. The reason is that when the handle is rotated to the right (presumably standing looking out from the tank), the spring is compressed and the new discharge valve is biasing to close, thus no flush will be produce.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claimed subject matter of claims 2 and 3 renders the claims indefinite since such claimed limitations do not have any detailed support in the instant specification.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 3, as presently and best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Tsai et al. (5396666).

The Tsai et al. reference discloses a toilet device installed in a toilet water tank (Fig. 5). When the handle is rotated to the right (standing looking in from the left side of the page), the linkage (61) lifts the flapper valve (40) and gravity forces out the water from the tank. However, the flushing cycle is interrupted by the valving system (53) which only allows a preset amount of water to be released (Fig. 7). This amount of water will be sufficiently to (partially) flush the liquid waste from the toilet bowl. Furthermore, by releasing the handle, the flapper valve will close and the water level in the tank and bowl will again rise to the set point ready for the next flushing cycle either a full flush (Fig. 6) or a partial flush (Fig. 7).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 1, as presently and best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsai et al. (5396666).

The Tsai et al. reference discloses a toilet device installed in a toilet water tank (Fig. 5). The device includes a spring gear (71) for allowing a dual rotation (Figs. 6 & 7). The device also includes a mechanical stop (53) and a return

center (Fig. 5). A shaft (61) is attached to the handle (65). On the shaft, there are knobs (the portion where cord 30 attached) that are located substantially at right angle to link to the internal toilet flush mechanism such as the flapper valve. The handle is rotatable to the right or left (Figs. 6 & 7).

Even though, the Tsai et al. reference does not specifically disclose that the rotation is 30 degree to the right of left as claimed. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a 30 degree rotation since discovering an optimum degree for a rotation involves only routine experiment or trial and error for one of skill in the art, especially since Tsai et al. reference also shown (Figs. 6 & 7) that the handle is rotated about 30 degree to the right of left.

12. Claim 2, as presently and best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsai et al. (5396666) in view of Addicks et al. (4122564).

The Tsai et al. reference discloses a toilet device installed in a toilet water tank (Fig. 6). The device includes a handle (65) is rotatable to the left (Figs. 6, standing looking in from the left side of the page). When the handle is rotated to the left, the flapper valve (40) will be pulled open, and gravity forces out the water from the tank thus expelling both solid and liquid waste from the bowl. When the tank is empty (due to a full flush), the flapper valve closes.

Even though, the Tsai et al. reference does not specifically include an air bulb (an float) as claimed. Attention, however, is directed to the Addicks et al. reference which discloses another dual flush toilet system having a conventional

water tank refill system using an air bulb or float (16) for shutting off the water supply when the preset level is reached. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to having modified the Tsai et al. device by employing a float (if not already), in view of the teaching of Addicks et al., in order to control the refill water level inside the tank.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reid, Goren, Ball and Hwang et al. were cited to show a dual flush toilet system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (703) 306-5483. The examiner can normally be reached on M-F (7:00-4:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Khoa D. Huynh', with a long horizontal line extending from the end of the signature.

Khoa D. Huynh
Patent Examiner
Art Unit 3751

HK
04/02/2004